

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service)

TO: The Commission

**BROADCASTERS CAUCUS REPLY TO COMMENTS ON
THE SIXTH NOTICE OF PROPOSED RULEMAKING**

January 24, 1997

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I. SUMMARY AND INTRODUCTION

The undersigned broadcast organizations (the "Broadcasters Caucus" or "Caucus") hereby submit this reply to comments on the Commission's Sixth Further Notice of Proposed Rule Making, 11 FCC Rcd 10968 (1996) ("Sixth Notice" or "Notice").^{1/} Beginning in August 1996, the Broadcasters Caucus spearheaded a nationwide effort to analyze the Commission's draft DTV channel allotment/assignment plan ("FCC DTV Table"); to develop an alternative approach designed to preserve NTSC service, maximize DTV service, and provide sufficient flexibility to respond to real world demands; to develop an allotment/assignment table that reflects this approach

^{1/} The Broadcasters Caucus is an ad hoc group of broadcast organizations, including ABC, ALTV, APTS, CBS, Chris Craft, Fox, MSTV, NAB, NBC, PBS, and Tribune, that was formed in 1990 as a part of the Advanced Television Systems Committee ("ATSC") to represent broadcasters on DTV issues. Although a member of the Caucus, Fox is not a signatory to this reply. All of the signatories support the general thrust of this reply, although there may be differing views with respect to particular points.

The term "Broadcasters" refers to the more than 200 signatories to the Broadcasters' Comments on the Sixth Notice, submitted on November 22, 1996, and the signatories to at least eight previous joint filings.

but is susceptible to change (the "Modified Table"); and to coordinate with local stations across the country to make constructive proposals to the Commission on DTV channel assignment and NTSC database adjustments.

These efforts led to the filing on November 22, 1996, of comments on the Notice signed by over 200 signatories ("Broadcasters' Comments"). The basic approach outlined in those comments has been endorsed by non-signing broadcasters, low power and translator stations, and other industry players. Some broadcasters have raised site-specific concerns with DTV channel assignments proposed by either or both the FCC DTV Table and the Modified Table. Such concerns are to be expected during this necessarily dynamic transition and should be addressed on a case-by-case basis. General concerns about the power levels specified in the allotment/assignment tables are serious, and broadcast industry representatives from both the UHF and VHF communities have worked diligently to find interim solutions to cope with the uncertainty that necessarily exists while more field tests are conducted. These solutions are presented in Part II. Finally, some members of the public safety community also have raised concerns about the effect of the DTV roll-out on their services. While these commenters have legitimate concerns about public safety needs, the solutions they propose would exacerbate what is already a mutually-destructive clash of services. Other solutions can and must be found.

In the main, the top priority for the Commission should be to adopt an allotment/assignment table based on Broadcasters' principles (but subject to well-managed and possibly frequent change) in the very near term so that the DTV licensing process and the transition can begin. Public safety spectrum needs or other spectrum-

related issues should not detract from or unduly hinder the transition to DTV. To foster flexibility and assure commenters that their individual concerns will be addressed, the Commission should establish a coordination process to consider changes to a "final" allotment/assignment table.

II. THE COMMENTS REVEAL WIDESPREAD OPPOSITION TO THE CORE SPECTRUM PROPOSAL AND SIGNIFICANT SUPPORT FOR THE ALLOTMENT/ASSIGNMENT APPROACH PUT FORTH BY BROADCASTERS

A. Opposition to Core Plan

In response to the Commission's invitation to submit alternative channel assignment plans, Broadcasters submitted detailed comments and a Modified Table on November 22, 1996.^{2/} Supporting the approach embodied in the Modified Table were over 200 signatories -- representing more than 660 stations, as well as five networks and four television trade associations -- in short, representatives of virtually the entire industry. The Modified Table improves upon the FCC DTV Table in a number of significant ways. For example, the Modified Table reduces new NTSC interference by 18% and DTV interference by 28%. It also increases replication, increases the opportunities for stations to maximize DTV service areas, reduces the displacement of low power ("LPTV") and translator stations,^{3/} and increases the amount of flexibility necessary to accommodate channel and station adjustments over time.^{3/} Key to these

^{2/} APTS and PBS endorse the policy arguments submitted by Broadcasters but do not endorse adoption of the Modified Table. As noted in the Broadcasters' Comments (at 2 n.2), they believe that adjustments beyond individual channel and facility changes to that Modified Table are necessary to protect public television stations' interests, particularly minimum service areas. The Caucus proposal regarding incorporation of minimum service areas is discussed in Section C of Part II.

^{3/} See Broadcasters' Comments, at iii, 27-28, 34, 38-40.

improvements is the Modified Table's use of the entire broadcast band from channels 2 to 69 as opposed to the Notice's core band proposal to concentrate DTV assignments in channels 7 to 51 (11 FCC Rcd at 10977-10980).^{4/}

The more than 120 comments submitted to the Commission by other broadcasters reveal widespread opposition to the core band proposal and considerable support for the Broadcasters' approach. The same is true for comments submitted by a variety of other commenters, including LPTV and translator stations, equipment manufacturers, consultants, engineers,^{5/} and many individuals worried by the loss of free over-the-air service.

Individual broadcasters overwhelmingly object to the core spectrum plan.^{6/} Many commenters simply endorse the Broadcasters' arguments against the core proposal.^{7/} Others focus on the impact of the core plan on flexibility and maximization. They agree that the core plan will eliminate much-needed flexibility during the transition

^{4/} Though the Modified Table uses the entire band, it was designed to effect as few changes as possible to the FCC DTV Table. As described more fully in the Broadcasters' Comments, this design resulted in fewer channels being assigned outside of the core band than would have been the case had the Modified Table been constructed from scratch. Id. at 26.

^{5/} For example, like the Broadcasters, the Association of Federal Communications Consulting Engineers ("AFCCE") also argues that the core proposal is simply unrealistic, given likely interference problems that would ensue under a core plan. See AFCCE Comments, at 16.

^{6/} See, e.g., Comments of Blackstar Communications, at 4-5 (Nov. 29, 1996); California Oregon Broad. Inc., at 5 n.4; Chris-Craft/United, at 7; ComCorp of Texas, Inc., at 1; Freedom Communications, Inc., at 6; Independent Broad. Co., at 2 (Nov. 21, 1996); La Dov Educ. Outreach, at 3; Malrite Communications Group, Inc., Eng. Statement, at 4; Media Gen., at 5; Meredith Corp., at 3-12; NBC, at 5; Pappas Telecasting Cos., at 4-5 (Nov. 27, 1996); Pulitzer, at 3-4; Ramar Communications, Inc., at 3-4 (Dec. 4, 1996); RGV Educ. Broad., Inc., at 3-4; Silver King Communications, at 2; Univision Communications, Inc., at 8; Western New York Public Broad. Ass'n, at 2; WRNN Assoc. Ltd. Partnership, at 4. Unless otherwise indicated, all comments on the Notice were filed on or before November 22, 1996.

^{7/} See, e.g., Comments of WRNN-TV Assoc. Ltd. Partnership, at 4; RGV Educ. Broad. Inc., at 4; McGraw Hill Broad., at 1.

period -- constraining, for example, facility changes, channel changes, and other station modifications that may become necessary as the industry and the Commission gain real-world experience with DTV.^{8/} They argue also that the core plan will hamper or even eliminate stations' abilities to increase their service areas beyond their present NTSC service areas -- which will both perpetuate the disadvantages under which UHF stations have historically operated and delay the provision of the digital television benefits to more viewers. Many broadcasters also cite the additional concerns about maintaining channel identity in connection with the fact that the core plan would prevent approximately one-third of all stations from moving DTV operations back to their original NTSC channel at the end of the transition. A number of broadcasters (as well as equipment manufacturers) argue that being barred so at the outset is disruptive to channel identities, has the potential to confuse (and thereby disenfranchise) the public, and could be divisive within the industry itself.^{9/}

Particularly troublesome in the core plan is the proposal to require the give-back of channels 2-6. Many broadcasters question the Notice's assumption that

^{8/} See, e.g., Comments of Ass'n of America's Public Television Stations, at 14 (citing need for flexibility for modifications); Western New York Public Broad. Ass'n, at 2; Media Gen. Inc. & Park Acquisitions, Inc., at 5 (opposing core plan and stating that the transition should be as flexible and fluid as possible); see also Harris Corp. Comments, at 3 (arguing that the Commission should maintain flexibility by using the full spectrum). See generally Broadcasters' Comments, at 38-40.

^{9/} See, e.g., Comments of Blackstar Communications, at 6 (Nov. 29, 1996) (Channel 43, Melbourne, Florida, would face relocation costs and loss of channel identity); ComCorp of Texas, Inc., at 1 (KVEO, Brownsville, Texas, indicates concern about second channel switch); Freedom Communications, Inc., at 6 (objects to core spectrum proposal mostly because of the effect on lower VHF stations currently operating in Channels 2-6); RGV Educ. Broad., Inc., at 6 (citing concerns about disruption); WRNN, at 2 (expressing concern about costs of second switch). See generally Broadcasters' Comments, at 36-38. See also Harris Corp., at 4 (citing channel identity concerns).

certain areas of the spectrum are technologically more appropriate than others for DTV, labelling the assumption premature and unwise.^{10/} Likewise, engineering consultants also express disagreement with the Commission's assumption that lower VHF channels are unsuitable for DTV.^{11/} The Broadcasters' Comments explained that there is no valid reason to determine now what channels should be surrendered 15 years from now or whenever the transition is completed -- and there are good reasons to wait.^{12/} Moreover, because VHF channels are particularly well-suited for efficient, wide-area coverage, there should be every expectation that these channels should be retained for television use after the transition.

LPTV and translator stations also overwhelmingly oppose the core spectrum plan.^{13/} Some full power stations join this opposition, citing the disastrous effect of the core plan on LPTVs and translators as yet another basis upon which to reject the core proposal.^{14/} As emphasized in the Broadcasters' Comments, the plan will force a large number of LPTV and translator stations to shut down, or at best

^{10/} See, e.g., Comments of Fireweed Communications, Anchorage, at 9; Media General, at 5; Meredith Corp., at 3-12; NBC, at 5.

^{11/} Comments of Du Treil, Lundin & Rackley, at 7-8 (Nov. 26, 1996). Others filing comments share this skepticism with the Commission's assumption. See, e.g., Comments of Harris Corp., at 3.

^{12/} See Broadcasters' Comments, at 35.

^{13/} See, e.g., Comments of Dept. of Special Districts, San Bernadino County, at 9; Eagle Communications, at 2 (Nov. 21, 1996); Hispanic Broadcasters of Tucson, at 1; Nat'l Translator Ass'n, at 4; Telemundo Group, at 19-20; Three Angels Broad. Network, at 4; Trinity Broad., at 2; Venture Techs. Group, at 5 (Dec. 6, 1996); Wellton-Mohawk Irrigation and Drainage Dist., at 1 (Nov. 21, 1996); KUED and KULC, at 2 (noting that the FCC plan would eliminate a relay site, thereby removing the input signals to more than 60 translators in northeast Utah).

^{14/} See, e.g., Sarkes Tarzian, at 7 (Nov. 21, 1996); Ramar Communications, Inc., at 3-4 (Dec. 4, 1996).

relocate.^{15/} The Notice estimated that the core channel plan would eliminate 35 to 45% of all LPTV stations and 10 to 20% of all translator stations. An additional 17% of all LPTV and translator stations would be affected by early recovery of channels 60 to 69. 11 FCC Rcd at 10995. Broadcasters' data suggest the numbers would be much higher,^{16/} and many of the parties filing separate comments agree that the damage would be more severe than the Commission has estimated.^{17/} In short, such extensive termination of LPTV and translator stations under the core proposal would unnecessarily deprive the public of valuable service.^{18/} By contrast, the Modified Table, if adopted, would displace 63% fewer LPTV and translator stations than would the core plan approach. Further, under the Broadcasters' approach, more spectrum would be available in the interstices of the DTV and NTSC channel assignments to accommodate LPTV and translator stations.^{19/}

^{15/} Abacus points out that there are 250 low power television stations in the top 30 television markets, one third of which are located outside the core. In addition, there are 2000 translators outside the core. Comments of Abacus, at 2 (Nov. 25, 1996). "In summary," they write, "displacement is a costly, disruptive, and business-endangering process that will significantly injure LPTV stations. A significant number of stations will not merely be displaced when a DTV allotment is dropped in on their channel, but will be terminated" Id. at 13.

^{16/} See Broadcasters' Comments, at 33.

^{17/} See, e.g., Comments of Eagle Communications, at 2 (Nov. 21, 1996) (impact on translator stations will be "much more severe than the Commission's estimate"); Trinity Broad., at 2 ("staggering loss of service"); KUED and KULC, at 3 (loss of translators in Utah could be as much as three to four times higher than the FCC's estimate).

^{18/} See Comments of Abacus, at 7 (Nov. 25, 1996); KM Communications, at 7; Trinity Broad., at 3-4 ("While translators and LPTV facilities are regulated as 'secondary' facilities, it is nevertheless beyond question that they provide needed, and otherwise unavailable, free service to significant portions of the American population particularly in rural and smaller underserved communities.").

^{19/} See Broadcasters' Comments, at 34.

Industry representatives were not the only ones to file comments opposing the core plan. Many television viewers also took advantage of the comment period to speak out against the core spectrum proposal. Individuals across the country filed comments vehemently opposing the core plan because of its destructive effect on translator stations that serve as broadcast lifelines for their communities. Urging the Commission not to "sell rural America out" or take away their programming, residents in rural areas, for instance, emphasize that many viewers cannot afford cable or satellite dishes or have no access to cable.^{20/} They remind the Commission of the continued importance of free over-the-air television for households with moderate to low incomes, and the critical need for translator stations in rural and underpopulated areas of the country.

In sum, the comments reveal widespread opposition to the core spectrum plan embodied in the Commission's DTV Table. This opposition is accompanied by significant support for the Broadcasters' alternative plan to use the full spectrum while minimizing, to the extent possible, assignments in channels 60-69.^{21/} Adoption of the Modified Table will result in significantly less interference than the core plan, and this translates to improved service to the public. At the same time, the Modified Table will

^{20/} See Comments of Terry & Sherry Warren ("Please please please do not sell off our translator channels Remember those of us in rural areas"); Lucille & Jerome Gutzwillen ("We live in a rural area and can not afford cable or satellite dishes."); Paul & Ruby Hurd ("We live out where we can't get cable TV . . . and we really need the local news reports . . . please don't take them off the air"); Garry Feil ("don't sell rural America out, we need our local translators"); *id.* ("Our area alone will have 100,000 people who will no longer be able to receive their television signals from translators."); see also Comments of Tom & Deb Lorz; Pauline Grawell; David Nogel. See generally Broadcasters' Comments, at 31-33 (discussing service losses under the core plan).

^{21/} See, e.g., Comments of McGraw Hill Broad. Co., at 1; RGV Educ. Broad. Inc., at 2, 7; Telemundo Group Inc., at 2; WHDH-TV, Inc., at 1-2; Meredith Corp., at 2.

best preserve opportunities for maximization, channel and station changes, and LPTV and translator stations.

B. Concerns About Specific DTV Channel Assignments

Some comments evinced concerns with specific channel assignments proposed in the Notice^{22/} and, in some cases, in the Modified Table.^{23/} Stations have raised channel concerns for a host of reasons ranging from transmitter location problems, to interference concerns, to simple misunderstandings about the mechanics of transmitting in the digital era.^{24/} These concerns generally raise site-specific issues and should be examined on a case-by-case basis. They need not stand in the way of issuing a DTV allotment/assignment table, even if a number of channel assignments will have to be adjusted after issuance of the final DTV table. Indeed, even those commenters with specific DTV channel assignment objections make it clear that they are not seeking delay and that they support the Notice's and the Broadcasters' proposal to allot and assign channels on the basis of sound engineering principles.

As the Notice states (11 FCC Rcd at 11009-11012) and as Broadcasters have long expected,^{25/} proposals to change specific channel assignments will be an inevitable part of the transition to DTV. The Commission should proceed with adopting the DTV table so that the transition may begin while simultaneously encouraging stations

^{22/} See, e.g., Comments of Appalachian Broad. Corp., at 1-6; Channel 2 Broad. Co., at 3-4; Channel 51 of San Diego, at 1 (Nov. 25, 1996); ComCorp of Texas, Inc., at 1.

^{23/} See, e.g., Comments of Christian Communications, at 1; Mid-State Television, at 1.

^{24/} See, e.g., Comments of Blackstar Communications, at 3 (Nov. 29, 1996); Lewis Broad. Corp., at 7.

^{25/} See, e.g., Broadcasters' Proposed ATV Allotment/Assignment Approach, MM Docket No. 87-268 (January 13, 1995), at 26-32; Broadcasters' Comments, at 47-57.

to come forward with concerns and questions regarding DTV assignments. As discussed in detail in the Broadcasters' Comments and below in Part III, channel objections and concerns can and should be addressed and analyzed through industry coordinating committees. Indeed, the Broadcasters Caucus already has put a preliminary coordination plan into action. As explained in the Broadcasters' Comments, the Caucus regional coordination process provided an outlet for stations to air concerns and to request information on alternative DTV channels as well as coverage and interference data. A list of station requests for information or for new DTV channels was attached to the Broadcasters' Comments^{26/} and is still being updated. This coordination process will be ongoing, as stations continue to analyze proposed DTV channel assignments.

Moreover, the comments to the Notice reveal that the broadcasting industry supports the creation of coordinating committees. In fact, many commenters, while objecting to specific channel assignments, indicate that they have participated in or plan to participate in the Caucus' regional coordination process and that, through this process, they are exploring acceptable alternative DTV assignments.^{27/}

The Commission already has acknowledged that finalizing a DTV table is a complex and difficult task. Indeed, such recognition lies behind the Commission's proposal to limit initial eligibility to existing broadcasters. This complexity will continue beyond the release of a finally adopted DTV table and persist through the initial stages of the transition. Improvements to and refinement of the DTV table will be necessary to

^{26/} See Broadcasters' Comments, at 39, 54-56, Appendix E.

^{27/} See, e.g., Comments of Blade Communications, Inc., at 2; Gateway Communications, Inc. Eng. Statement, at 1; Lewis Broad. Corp., at 2; McGraw-Hill Broad. Co., at 2-3; Meredith Corp., at 14.

respond to unforeseen technical difficulties, to resolve stations' concerns, and to minimize disruption to the public. The Commission must therefore ensure that a system is in place to deal with the "tweaking" of the DTV table, as adopted. As discussed above and in more detail below, the Broadcasters Caucus believes that industry coordinating committees can assist in this process. Furthermore, the Commission should not, during this adjustment period, treat table adjustments as occasions to accept competing applications. This approach would be consistent with the Commission's determination to limit initial eligibility to existing broadcasters and its recognition of the need to adjust the table to marketplace and service realities.^{28/} While the adjustments are worked out during the initial stages of the digital era, the Commission should permit modifications to the table, including channel changes, and should not unduly complicate or inhibit the adjustment process.

C. General Concerns Regarding Coverage Areas and Power Levels

1. Replicating the UHF and VHF Comparative Competitive Posture

The objective of the Modified Table, including associated power levels,^{29/} tower heights and other technical parameters, has been and should be to replicate NTSC coverage (including indoor direct connected antenna coverage well within stations' Grade B contours) and the relative competitive posture of analog VHF and UHF stations in the new DTV environment. In addition, all stations should,

^{28/} See, e.g., Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry, 10 FCC Rcd 10541, 10544-45 (1995); see also 47 U.S.C. § 336(a) (codifying limitation of initial eligibility to existing broadcasters).

^{29/} It is important to keep in mind that the Modified Table does not specify maximum and minimum power levels but only lists power levels that, according to the Advisory Committee tests, are expected to yield the predicted coverage area, given the station's tower height.

consistent with achieving replication, be permitted to maximize their DTV stations up to the largest DTV coverage area in the given market, so long as they cause no new interference to the NTSC or DTV service.^{30/}

The model endorsed by the Broadcasters Caucus was intended to achieve these objectives. However, some broadcasters are concerned that, due to the power levels specified in the Modified Table,^{31/} the relative close-in and indoor antenna reception coverage of NTSC VHF channels moving to DTV UHF channels (V-to-U's) will be better than that of NTSC UHF channels moving to DTV UHF channels (U-to-U's).^{32/} If so, the relative competitive posture of analog VHF and UHF stations would not be replicated in the DTV environment. All agree on the need for more field data to confirm the relative reliability of reception between V-to-U's and U-to-U's.

Two weeks ago, when the Commission issued its order extending time for filing reply comments,^{33/} the broadcasting industry appeared split on the issue of the relative predicted power levels for some U-to-U's and some V-to-U's. After many meetings and creative thinking by all concerned, members of the broadcasting industry (both U-to-U's and V-to-U's) have greatly narrowed that gap. The signatories to these

^{30/} See Broadcasters' Comments, at 5, 13, 40. Maximization could be efficiently handled in the coordination process that the Broadcasters Caucus proposes in Broadcasters Caucus Petition for Further Notice of Proposed Rulemaking, filed in this docket on January 10, 1997, and described in Part II.

^{31/} The same is true for the FCC DTV Table.

^{32/} See, e.g., Comments of Cannell Cleveland L.P., at 6; see also Motion for Extension of Time filed by Sinclair Broadcast Group, Inc. and Sullivan Broad. Company (Jan. 2, 1996) and Motion for Extension of Time filed by Viacom, Inc. (Jan. 3, 1997).

^{33/} Second Order Extending Time for Filing Reply Comments, DA 97-23, MM Docket No. 87-268 (Jan. 8, 1997).

reply comments as well as the Sinclair Broadcast Group, Inc. and Viacom, Inc. have nearly mapped out an interim plan to manage the uncertainties over the first several years of the DTV roll-out, until more definitive field data is available. The four key elements of this plan, set forth below, are that (a) the Commission would forthwith adopt an allotment/assignment table relying on the power levels and antenna heights specified by the Broadcasters' model to replicate current NTSC coverage and protect these replicated contours; (b) for a two-year period while field data are being gathered, U-to-U's in some markets would have the ability to double their power levels up to X Kw; (c) for this two-year period, DTV stations (generally V-to-U's) would phase in power and operate at no more than X Kw at the antenna height specified by the Broadcasters' model;^{34/} and (d) at the conclusion of this two-year period, the Commission would determine what adjustments were needed, if any, to the power levels specified in the allotment/assignment table.

The one piece of this plan on which consensus was impossible was what the "X" power level should be, and the parties reached stalemate at a difference of 3dB. In sum, a number of broadcast organizations proposed a 1000 Kw (one megawatt) compromise.^{35/} A number of broadcast organizations proposed a 500 Kw compromise.^{36/} The Caucus urges the Commission to consider the following proposal, supported by representatives of the U-to-U community within and outside of the Caucus,

^{34/} Power level X would be adjusted if the antenna height is changed using the appropriate height-gain correction in the Broadcasters' model.

^{35/} These are: ABC, CBS, NBC, and MSTV.

^{36/} These are: ALTV, APTS/PBS, Sinclair, Tribune, and Viacom.

and to work with the industry promptly to find an appropriate figure for "X" for inclusion in the report and order accompanying the issuance of the DTV allotment/assignment table:

I.

Accordingly, the industry representatives (including U-to-U's, V-to-U's, and others) commit to:

- (1) Devote time, personnel, and substantial financial and logistical resources to design, conduct, and evaluate in-the-field tests of V-to-U and U-to-U DTV operations on coverage and interference issues. Such tests should evaluate the extent to which the relative competitive posture of today's UHF and VHF stations is replicated in the DTV environment both with respect to Grade A and Grade B coverage and taking into account indoor direct connected antenna and reliability of reception. This undertaking, which should reach out to include FCC personnel to the extent possible, should be cooperatively designed and organized and should be concluded within 18 months after the Commission adopts a table of allotments/assignments along the lines recommended by the industry.*
- (2) Work with receiver manufacturers to develop greatly improved receiving antenna technology for widespread inclusion in television receivers.*
- (3) Work to create and/or support the appropriate organization(s) to provide continuing technical oversight of the testing, power, and channel allotment/assignment process and to make recommendations to the Commission based on neutral and scientific principles.*

II.

Members of the broadcast industry, including U-to-U's, V-to-U's and others, will urge the FCC promptly to proceed with the Broadcasters' allotment/assignment approach and to include in its associated report and order language recognizing the objective and the issues to be addressed by the field tests. In addition, they will urge the Commission in the same report and order to adopt the following five steps to address the DTV power issue, which should be adopted as a single package. The FCC should:

- (1) *Acknowledge and support the ability of all stations to improve their indoor antenna reception by increasing their overall power beyond the powers specified in the table and target such power within their current Grade A service area, provided that no new interference is caused to other NTSC stations or DTV stations operating on the same or first adjacent channel.*
- (2) *Adopt and implement the principle of "maximization" that the Caucus has designed and recommended to the FCC. Under the maximization principle, at least 700 of the existing 1,069 UHF stations would be able to increase their power, sometimes significantly. Most stations in the major markets may not be able to take advantage of the maximization principle.*
- (3) *Allow U-to-U stations in any given market to double their power, not to exceed two-thirds the power level of the lowest V-to-U in the same market or level X, from that specified in the Modified Table^{37/} for the initial two-year period that begins with the FCC's adoption of the allotment/assignment table, provided that no new material interference is caused to NTSC stations. At the end of two years, the FCC would determine, taking into account the field data to be developed and submitted by the broadcast industry and interference concerns, whether and how to adjust the U-to-U power levels in the future so as to replicate the relative competitive posture of U-to-U's and V-to-U's in the DTV environment. Individualized station-by-station solutions could also be accommodated at that time. This proposal is premised on the FCC's adoption of the 7dB receiver noise figure for UHF signals proposed by the Broadcasters and the concomitant requirement that receivers meet this standard.*
- (4) *Implement a phased-in approach to power with respect to all DTV stations for a two-year period from the adoption of an allotment/assignment table. Under this approach, DTV stations would be licensed at the powers specified in the Modified Table, but they would operate at no more than level X for this two-year period (unless operating under the conditions specified in the next paragraph). Thereafter, V-to-U stations could immediately implement their full licensed power subject to any eventual FCC action pursuant to II(5). During this first two-year phase, all stations would have protected service contours out to their replicated coverage area, notwithstanding that they would not be operating at full facilities. Indeed, this principle should apply throughout the transition period.*

^{37/} This proposal recognizes that the Modified Table may be adjusted before and after it is adopted.

In order to enable the collection of field data, a certain number of V-to-U stations participating in the testing process will be permitted to operate at more than level X, up to the power levels specified in the Modified Table, for the initial two-year period. The number and location of these stations should be determined, based on engineering principles, by the organization(s) alluded to in I(3). At the conclusion of the two-year period, these stations would be treated as all other V-to-U stations as described in the paragraph above.

- (5) *Recognize the importance of finding solutions to the problem of any failure to replicate the relative competitive posture of analog VHF and UHF stations in the new DTV environment and consider the recommendations of the organizations described in I(3) above. Should the field tests show that fixes (beyond maximization) are necessary to achieve replication, the FCC should adopt appropriate solutions, including power increases or decreases for DTV stations as necessary, individual DTV station facility changes and the assignment of unassigned channels if available. Nothing the FCC does should interfere with the ability of stations to increase their coverage areas according to the maximization principle.*

2. Other Coverage and Power Issues

In addition to the foregoing, the incorporation into the final DTV table of minimum service areas should assure commenters that currently have smaller service areas that they will have reasonable coverage areas in the DTV environment. As was proposed in the Broadcasters' Comments, the Commission should adopt minimum DTV service areas that use a combination of power and tower height parameters to achieve the minimum service contours.^{38/} Since the filing of the Broadcasters' Comments, the Broadcasters' Caucus has continued to explore this issue and has determined that a reasonable minimum DTV service area of 65 km should be incorporated into the final DTV table. Such a proposal would allow 14% of existing stations (primarily in the UHF band) to *increase* their service areas. Further, this proposal would not hinder

^{38/} See Broadcasters' Comments, at 44-45.

stations' abilities to, at a minimum, replicate their NTSC service. The interference caused by the 65 km minimum service area, according to our calculations, is minimal. Accordingly, the Caucus urges the Commission to protect minimum service area contours in its final DTV table and proposes a 65 km minimum service area as a reasonable minimum.

Furthermore, regardless of what approach is taken with respect to V-to-U stations' power, it is important to address the concerns of those V-to-U's that believe they cannot afford to operate at the high power levels specified in the Modified Table.^{39/} In fact, the Broadcasters' use of a lower noise figure for the UHF DTV channels results in lower power levels for all UHF channels than those assigned by the FCC DTV Table.^{40/} Moreover, it has long been the position of the Broadcasters that DTV service area contours should be protected even if stations commence their service filling only part of the contour.^{41/} The protection of service area contours will allow stations to initiate DTV broadcasting at a lower power level and to expand coverage as their technological and financial capabilities permit.

^{39/} See, e.g., Comments of Blackstar Communications, at 4-5 (Nov. 29, 1996); California Oregon Broad., at 2-4; Citadel Communications, at 2-3 (Dec. 4, 1996); Media Gen. & Park Acquisitions, at 3.

^{40/} Broadcasters' Comments, at 44.

^{41/} Broadcasters' Comments, at 51-52.

III. THE COMMISSION SHOULD PROCEED WITH ESTABLISHING COORDINATION COMMITTEES AND PROCESSING APPLICATIONS FOR NTSC STATIONS AND MODIFICATIONS FAIRLY AND EFFICIENTLY

A. DTV Channel Coordination Committee

Since the release of the Notice, the Broadcasters Caucus has received over 250 requests for information on the coverage characteristics of alternative DTV channels and NTSC or DTV facility changes. In addition, more than 20 broadcast organizations filed comments requesting DTV channel changes.^{42/} Others suggested alternative channel planning principles in order to achieve increased coverage or reduced power requirements in the DTV world.^{43/} All these requests point out the urgent need to establish a non-governmental DTV channel coordination process to begin to recommend changes to the DTV table as soon as it is adopted.^{44/}

^{42/} See, e.g., Comments of Appalachian Broad. Corp; California Oregon Broad.; Channel 2 Broad. Co.; Channel 51 of San Diego; Christian Communications; ComCorp of Bryan; ComCorp of Texas, Inc.; Eagle Communications; Fox Television Stations; Grant Broad.; Great Trails Broad. Corp.; K-Six Television, Inc.; LeSea Broad.; Lewis Broad. Corp.; McGraw Hill Broad. Co.; Mid-State Television; Pappas Telecasting Co.; Renaissance Communications Corp; Sarkes Tarzian; Silver King Communications; Sunbelt Communications Co.; Telemundo Group, Inc.; U.S. Broad. Group; WRNN-TV Assoc. Ltd. Partnership; WWWB-TV Co.

^{43/} See, e.g., Comments of KUPN, Channel 21, at 1-2; TV-52, Inc., at 2; Wabash Valley Broad. Corp., at 21; Holston Valley Broad., at 5. Some commenters, for example, advocate an all-UHF DTV channel assignment approach or the Commission's former "maximizing approach." Such approaches are neither technologically feasible or desirable, and the Commission has wisely moved beyond them. See Broadcasters' Comments, at 12-13.

^{44/} As previously noted, the Broadcasters Caucus has already attempted to undertake these duties, at least in rudimentary fashion, by establishing the 10 regional groups through which DTV channel information requests were processed. However, the ad hoc, wholly voluntary process the Broadcasters Caucus established is not equipped to resolve the thorny and numerous issues that will arise in the future nor is it formally linked, as it must be to be effective, to the Commission's processing of proposed channel and facility changes.

As envisioned by the Notice, coordinating committees should be established to "evaluate and provide advice to the Commission with regard to coordination of changes in allotments; the creation of new allotments; and changes in authorized facilities (for both NTSC and DTV stations) that would impact other allotments/assignments." 11 FCC Rcd at 11011.

To spur the creation of such a function, the Broadcasters Caucus filed on January 10, 1997, a Petition for Further Notice of Proposed Rulemaking to establish a DTV coordination process. The Petition requests the Commission to seek comment forthwith on the structure, operating rules, and composition of DTV coordinating committees. The Petition submits that the committees should function according to the basic principles established in the private land mobile radio service for frequency coordinators -- that is, that the committees should (1) be representative of the industry; (2) generally process requests in order of receipt; (3) give all stations that might be affected by a proposal notice and an opportunity to comment, object, or file proposals to modify their own facilities in a manner that would be precluded by the proposal under consideration; (4) provide coordination services on a nondiscriminatory basis for reasonable fees; (5) serve a purely advisory role to the Commission; and (6) help resolve licensee disputes. In addition, the Petition suggests that the committees should function in a coordinated fashion nationwide, using an updated database and the methodology described in the Broadcasters' Comments.

The Commission should release a further notice of proposed rulemaking on these issues immediately and should set a short comment period so that the

coordination mechanism is in place prior to the release of a final DTV table. This way, licensees will be assured of a forum in which to address their concerns.

B. Applications to Modify Existing NTSC Stations and to Construct New Ones

After issuing a notice of proposed rulemaking to establish a DTV coordination process, the Commission should resolve other issues raised in the Notice that could, if not carefully managed, slow the release of a final DTV table. In particular, the Commission should establish efficient and equitable procedures to process NTSC facility modification requests and applications for new NTSC stations. Broadcasters set forth below recommendations for the treatment of these applications that will allow the Commission to complete the DTV rulemaking while affording broadcasters full and fair consideration during this critical time in the transition to DTV.

1. Applications to Modify Existing NTSC Stations

The Notice states that the Commission will continue to accept applications to modify NTSC station facilities, such as those requesting a change in a station's maximum effective radiated power, transmitter location, or antenna height. It also states that the Commission will henceforth grant such applications subject to the DTV rulemaking proceeding. Thus, modification applications will be granted *only if* the modification will not create interference to a DTV or NTSC assignment (the "DTV condition"). The Notice requests comment on whether a different rule should be adopted for NTSC modification applications already on file when the Notice was adopted on July 25, 1996. 11 FCC Rcd at 10994.

The Broadcasters' earlier comments set forth the general position that pending and new applications for modifications should be considered in the order in

which they are filed and that the Commission should consider the likelihood of interference when deciding whether to grant these applications.^{45/} The refinement set forth below reflects the Broadcasters Caucus' further consideration of this issue and the positions of other commenting broadcasters.

a) Applications Filed On or Before July 25, 1996

The Broadcasters Caucus urges the Commission to treat all modification applications on file on or before July 25, 1996, similarly and not to apply the DTV condition to such applications. Furthermore, any such approved NTSC facility modification should be incorporated into the corrected NTSC database upon which the final DTV table will be based, and these stations should be assigned DTV channels that replicate their modified NTSC service areas. However, there should be no delay in issuing the table. If necessary, the table should be issued and then revised if and when these applications are granted.

Nearly all of the commenters addressing NTSC modifications take a similar position out of a conviction that the current proposal is fundamentally unfair.^{46/} Broadcasters received no notice that routine NTSC modification applications would be subject to limiting conditions due to the DTV allotment/assignment process. In addition, it is irrational and arbitrary to distinguish between applications, all filed at the same or

^{45/} See Broadcasters' Comments, at 49.

^{46/} See, e.g., Comments of Crossville TV Ltd. Partnership, at 2-3 (Dec. 4, 1996); LIN Television Corp., 54 Broad., Inc., Channel 41, Inc., KXTX of Texas, Inc., and K-W TV, Inc., at 7-8 (Dec. 6, 1996); Media Properties, Inc., at 1; Meredith Corp., at 14-15; Red River Broad. Corp. at 8; Second Generation of Iowa, at 1; Univision Communications, Inc., at 1-5. Two commenters request that the DTV condition not be applied to their own applications filed before July 25 but do not propose a general rule for the handling of all NTSC modification applications. See Comments of Aries Telecomm. Corp., at 2; WWAC-TV, Inc., at 2-3.

approximately the same time, that happened to be granted prior to July 25 and those still pending as of that date.^{47/} Although conditioning applications filed after adoption of the Notice is reasonable and, in fact, necessary, fair process requires that licensees be treated prospectively as of the date that the Notice was adopted. Accordingly, the current proposal should be altered in this one important respect.

b) Applications Filed After July 25, 1996

In order to ensure a swift and efficient transition to the digital era, the Commission should defer action on all applications for modification filed *after* July 25 until the final DTV table is released. After the table's release, the Commission should grant such applications subject to the DTV condition. Modifications would be permitted, therefore, only if the stations, as modified, did not interfere with a DTV or NTSC station. The Broadcasters Caucus wholly supports the Notice's proposal to continue accepting modification applications throughout the transition to DTV. Because the transition to DTV will take many years, with stations converting to DTV at different times, some modifications of existing NTSC stations will very likely be possible without any effect on neighboring NTSC or DTV stations. A policy of deferring decisions on modification applications for a short period and then conditioning such applications on the DTV table would still permit stations to modify their existing facilities (subject only to interference constraints), but would also advance the Commission's and the industry's shared objective of avoiding undue delay in the transition to DTV.

^{47/} See, e.g., Comments of LIN Television Corp., 54 Broad., Inc., Channel 41, Inc., KXTX of Texas, Inc., and K-W TV, Inc., at 7, 9-10 (Dec. 6, 1996); Pulitzer Broad. Co., at 8; Red River Broad. Corp. at 8-9.